

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

RITLABS, S.R.L.,

Plaintiff/Counter-Defendant,

v.

RITLABS, INC., and SERGHEI DEMCENKO,

Defendants/Counter-Claimants.

Case No.: 1:12CV215 AJT/IDD

Hon. Anthony J. Trenga

MOTION FOR PARTIAL SUMMARY JUDGMENT

NOW COMES Defendants Ritlabs, Inc. and Serghei Demcenko, by and through their attorney, and submits this Motion for Partial Summary Judgment. As supported by Defendant's memorandum in support of this motion, Defendants hereby seek summary judgment as a matter of law regarding the following issues as to which there is no genuine dispute of material facts:

1. Plaintiff's Lanham Act and Unfair Competition claims must be denied as a matter of law because there was no likelihood of confusion in connection with INC's use of Plaintiff's marks nor was SRL damaged by INC's use of the marks.
2. Plaintiff's Lanham Act and Unfair Competition Claims have no validity with respect to the MAILVOYAGER mark because Plaintiff never used the MAILVOYAGER mark in commerce.

3. Plaintiff cannot recover damages under its Lanham Act and Unfair Competition claims because Plaintiff knew of Defendant Ritlabs, Inc.'s existence and the unreasonable delay in bringing this action unduly prejudiced Defendants.
4. Plaintiff's anticybersquatting claim must be denied because Plaintiff cannot show that Defendants "registered, trafficked in, or used" the <ritlabs.com>, <ritlabs.net>, <batpost.com>, or <thebat.net> domain names or that Defendants had "bad faith intent to profit" from use of those domain names.
5. Plaintiff's Computer Fraud and Abuse Act claim must be denied because Plaintiff cannot meet the jurisdictional \$5,000 loss requirement of that Act.

Accordingly, Defendants Ritlabs, Inc. and Sergei Demcenko respectfully request that the Court dismiss Plaintiff's Counts I, III, IV and VIII in their entirety, and/or, in alternative, dismiss all claims against Defendants based on the MAILVOYAGER mark.

Respectfully submitted,

Dated: June 28, 2012

By: /s/
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CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of June, 2012, I will electronically file the foregoing **MOTION FOR PARTIAL SUMMARY JUDGMENT** with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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_____/s/_____
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